

Public Policy Issues	Tab 18
<p><b><u>Background:</u></b></p> <p><b><u>A. Federal Policy Issues</u></b>  TCDD Public Policy staff will provide an overview of the status and implementation of federal legislative initiatives that could impact people with disabilities.</p> <p>Discussion topics include:</p> <ul style="list-style-type: none"> <li>• AUCD Federal Budget Summary</li> <li>• Affordable Housing Resources for People with Disabilities</li> </ul> <p><b><u>B. State Supported Living Centers Update</u></b>  The Committee will receive updated data about children residing in institutions.</p> <p><b><u>C. State Policy Issues</u></b>  TCDD staff will provide an update regarding recent public policy activities.</p> <p>Discussion topics include:</p> <ul style="list-style-type: none"> <li>• Home &amp; Community Based Services (HCBS) Survey Comments</li> <li>• System Improvement Recommendations</li> <li>• Texas Commission on Law Enforcement (TCOLE) School Based Law Enforcement Training Comments</li> </ul>	
<p><b><u>Public Policy Committee</u></b>  <b><u>Agenda Item 7.</u></b></p>	<p><b><u>Expected Action:</u></b>  The Committee will receive updates on these items and may make recommendations for consideration by the Council.</p>
<p><b><u>Council</u></b>  <b><u>Agenda Item 14. A.</u></b></p>	<p><b><u>Expected Action:</u></b>  The Council will receive reports from the Public Policy Committee and consider any recommendations offered from the Committee.</p>



## ***In Brief* Special Report: Final Appropriations for Fiscal Year 2016**

On Friday, December 18, President Obama signed the \$1.8 trillion [Omnibus Appropriations Act](#) soon after it was passed by both houses of Congress, ending the threat of a government shutdown. The current continuing resolution was set to expire on Dec. 22. The bill provides full-year appropriations consistent with the Bipartisan Budget Act of 2015, which provided significant temporary relief from sequestration for both defense and non-defense programs. The bill passed the House on an overwhelming vote of a 316-11 followed by the Senate vote of 90-10. AUCD is pleased that the final bill provides modest increases for AUCD network programs as well as other important research, education, prevention and family support programs, and all of the cuts that were proposed in the Senate committee-passed bill are restored in the final bill.

Following is a table and summary highlights of the funding provided in the [text](#) of the overall omnibus bill for programs within the Departments of Health, Human Services and Education that impact people with disabilities and families.

<b>FY 2016 Appropriations for the Departments of Labor, HHS, Education and Related Agencies</b>				
<b>HEALTH AND HUMAN SERVICES</b>	<b>FY 2015 Enacted</b>	<b>President's FY16</b>	<b>FY 16 Final</b>	<b>Final vs. FY 15</b>
<b>Administration for Community Living</b>				
University Centers for Excellence in DD	37.8	38.6	38.7	+1.0
DD Councils	71.7	71.9	73.0	+1.0
Protection & Advocacy Systems	38.7	38.7	38.7	0.0
Projects of National Significance	8.9	14.5	10.0	+1.1
Family Support Project	0.0	15.0	0.0	0.0
Lifespan Respite Care Act	2.4	5.0	3.4	+1.0
Family Caregiver Support Services	145.6	150.6	150.6	+5.0
NIDILIRR	104.0	108.0	104.0	0.0
Independent Living	101.1	106.1	101.1	0.0
State Assistive Technology Programs	31.0	31.0	34.0	+4.0
Aging and Disability Resource Centers	6.1	20.0	6.1	0.0
Voting Access	5.0	5.0	5.0	0.0
CAPTA child abuse prevention	93.8	113.8	98.1	+4.3
<b>Health Resources and Services Administration</b>				
Maternal & Child Health Block Grant	637.0	637.0	638.2	+1.2
Autism and Other DD	47.0	47.0	47.0	0.0
Leadership Education in Neurodevelopmental & Related Disabilities (LEND)	28.0	28.0	29.0	+1.0

Universal Newborn Hearing Screening	17.8	17.8	17.8	0.0
<b>Centers for Disease Control and Prevention</b>				
Center on Birth Defects & DD, Disability and Health	131.8	131.8	135.6	+3.8
<b>National Institutes of Health</b>	30,084.0	31,084.0	32,084.0	+2,000.0
Nat Institute of Child Health and Hum. Dev.	1,286.6	1,318.1	1,339.8	+53.2
<b>EDUCATION</b>				
<b>Special Education (IDEA)</b>				
<b>Part B State and Local Grants</b>	11,497.8	11,672.8	11,912.8	+415.0
Preschool Grants	353.2	403.2	368.2	+15.0
<b>Part C Early Intervention</b>	438.5	503.5	458.5	+20.0
<b>Part D National Programs</b>				
State Personnel Development	41.6	41.6	41.6	0.0
Technical Assistance and Dissemination	51.9	61.9	54.4	+2.5
Personnel Preparation	83.7	83.7	83.7	0.0
Parent Information Centers	27.4	27.4	27.4	0.0
Technology and Media	28.0	28.0	30.0	+2.0
<b>Rehabilitation Services and Disability Research</b>				
Voc. Rehabilitation State Grant	3,335.1	3391.8	3,391.8	+56.7
Supported Employment State Grant	27.5	30.5	27.5	0.0
<b>Higher Education Act</b>				
Postsecondary Program for Students with ID (TPSID)	11.8	11.8	11.8	0.0
<b>Institute for Education Sciences (IES)</b>				
Research in Special Education (IES)	54.0	54.0	54.0	0.0
Special Education studies and evaluations (IES)	10.8	13.4	10.8	0.0
<b>LABOR</b>				
Office of Disability Employment Policy	38.5	38.2	38.2	-0.3

### **Administration for Community Living (ACL)**

The final Omnibus Appropriations Act provides a \$1 million increase for the University Centers for Excellence in Developmental Disabilities (UCEDD) program for a total of \$38.7 million. The accompanying report language directs that funding for technical assistance for the UCEDD network shall be no less than the previous fiscal year. The DD Councils also receive a \$1 million increase to a total of \$73 million. Protection and Advocacy programs received level-funding. Projects of National Significance also receive a \$1million increase; however, this increase is intended to fund a transportation assistance initiative for older adults with disabilities. These funding amounts are a significant victory, especially given that the Senate Committee bill had significantly cut all DD Act programs (\$2 million cut to UCEDDs; \$3 million cut to Councils; and \$2 million cut to the P&A programs).

AUCD is also pleased to see increases in the final bill for family support programs. The Lifespan Respite Care Act program receives a \$1 million increase to \$3.4 million. While still way below authorized levels, this increase will help to provide additional resources to states to develop or enhance existing respite programs. The National Family Caregivers Support Program, authorized under the Older Americans Act, will receive an additional \$5 million in the final bill for FY 2016.

New report language under ACL notes the nationwide trend towards deinstitutionalization in favor of community living. The appropriations bill language directs the Department of HHS to factor in the “needs and desire of patients, their families, caregivers, and other stakeholders, as well as the need to provide proper settings for care, into its enforcement of the DD Act.”

The Assistive Technology Act grant program receives a significant \$4 million increase. However, \$2 million at the increase is targeted to support existing and new alternative financing programs that provide for the purchase of AT devices as directed by the House Appropriations Committee report language.

### **Health Resources Services Administration (HRSA)**

The Autism and other Developmental Disabilities line item that funds research and training programs authorized by the Autism CARES Act receives level-funding at \$47 million in the final bill. However, the report language included in the final bill directs an additional \$1 million of that amount to be used “to initiate LEND programs in States that do not currently have an established program, yet have a high incidence rate of Autism spectrum disorders.” This amount could fund up to two new LEND programs this year. AUCD had advocated for a \$5 million increase in the overall “Autism and other DD” line item related to HRSA Autism CARES Act activities and a \$2 million increase for LEND programs. Since the overall increase was not provided, any increase to the LEND program could be taken from other HRSA CARES Act initiatives. AUCD will continue to advocate for an overall increase of the CARES Act programs within HRSA.

In other good news, the HRSA Title V Maternal and Child Block Grant received a \$1.2 million increase bringing the program to \$638 million. The final bill reverses cuts proposed in the Senate earlier this year to the Special Projects of Regional and National Significance.

### **Centers for Disease Control and Prevention (CDC)**

The final bill includes \$135.6 million for the CDC Center on Birth Defects and Developmental Disabilities (CBDDD), a \$3.8 million increase over the previous fiscal year. Within that total, \$22 million is targeted to the state Disability and Health program.

### **National Institutes of Health**

The measure would provide a sizable increase to the NIH of \$2 billion above current enacted levels, to the Senate-proposed level of \$32 billion, its highest ever. From this amount, the Eunice Kennedy Shriver National Institutes of Child Health and Human Development (NICHD) that funds the Intellectual and Developmental Disabilities Research Centers (IDDRC) would receive a \$53 million increase to \$1.3 billion.

Also of note is that within the \$2 billion increase, the bill includes the President’s budget request of \$200 million for the new Precision Medicine Initiative (PMI); an increase of \$350 million for Alzheimer’s disease research; an increase of \$85 million for the Brain Research through Application of Innovative Neurotechnologies (BRAIN) Initiative; and an increase of \$100 million for research to combat Antimicrobial Resistance.

The bill report language commends the efforts of NIH to work with the community to begin to address concerns related to the follow on to the National Children's Study. The bill includes \$165 million for this purpose.

The bill also continues to fund the 2<sup>nd</sup> year of the 10-year the Gabriella Miller Kids First Act pediatric research initiative at \$12.6 million. The report language encourages NIH to prioritize research related to childhood cancer.

### **Education**

The omnibus bill provides some important increases for special education programs. First, the bill increases state grants under the Individuals with Disabilities Education Act (IDEA) by \$415 million to a total \$11.9 billion. The bill also provides increases for IDEA's Preschool Grant program by \$15 million and Part C Early Intervention program by \$20 million.

In addition, the bill provides an additional \$2 million for IDEA's Education, Technology, Media, and Materials program with report language describing the success of this program allowing more than 320,000 students free access to more than 280,000 books in digitally accessible formats. The additional funding is intended to reach an additional 120,000 K-12 students with a focus on underserved areas.

Within the Institutes of Education Sciences, the bill report language acknowledges the importance and need for more research related to infant and toddler care and education and encourages the IES to make grant funding available for such research.

Within higher education funding, support is continued for the Transition to Postsecondary Program for Students with Intellectual Disabilities (TPSID) at \$11.8 million in FY 2016. There is no additional report language concerning this program.

### **Department of Labor**

While the final bill continues funding for the Office of Disability Employment Policy (ODEP) at current levels, the bill's report language discusses the future possibility of incorporating ODEP into the Employment and Training Administration and directs the DOL to evaluate and report on any organizational or programmatic challenges that such integration might create.

### **Conclusion**

Now that the final omnibus funding bill has been passed, we can look forward to a short break over the winter holiday, before the beginning of the Fiscal Year 2017 process starts with President Obama's last budget scheduled to come out on time the second week of February. Since the Bipartisan Budget Act has already set the overall discretionary budget amount for FY 2017, no joint budget resolution will be needed, eliminating one in the in the next cycle. AUCD will continue to advocate for sufficient federal investments in research, education, training, and community supports and services for people with disabilities and families.



# TEXAS COUNCIL *for* DEVELOPMENTAL DISABILITIES

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## AFFORDABLE HOUSING FOR TEXANS WITH DISABILITIES

### Deeply Affordable Rental Subsidies

**Section 8 Housing Choice Vouchers (HCV)** are a federal Housing and Urban Development (HUD) program administered by public housing authorities (PHA) to provide rental assistance. The HCV recipient pays rent equal to about 30 percent of adjusted income and the PHA pays the remainder directly to the property owner. Not all PHA's administer HCV's. Find PHA's on HUD's list of Texas Public Housing Agencies, 211 Website or call 211.

**Tenant Based Rental Assistance (TBRA)** Texas Department of Housing and Community Affairs (TDHCA) funds local governments, PHA's, and nonprofits, such as independent living centers, wishing to provide rental subsidies for up to 24 months while the household engages in a self-sufficiency program and up to five years for certain individuals with disabilities on a waiting list for a Section 8 HCV.

**Public Housing** is also funded by HUD and administered by PHA's. Tenants are required to pay a minimum of \$50 or 30% of adjusted income. Around 32% of public housing residents are people with disabilities.

**Homeless Housing Assistance** for homeless, at-risk of homeless or fleeing domestic violence is provided through state and local programs with federal assistance from HUD. Check your local housing agencies and 211.

### Assistance To Leave Institutions Using Section 8

**The Project Access program** uses HCV's or TBRA administered by TDHCA to assist low-income persons with disabilities and serious mental illness in transitioning from institutions to affordable housing.

**Section 811 Project Rental Assistance program** at TDHCA, in partnership with HHSC, provides rental assistance in integrated housing for extremely low-income persons with wish to leave nursing homes and institutions, those with serious mental illness facing housing instability, and youth with disabilities existing foster care. Texas 811 Project assistance is limited and available only in the seven Texas Metropolitan Statistical Areas.

### Traditional Affordable Housing

**Multi-Family Affordable Housing** TDCHA administers the HOME Program and Low-Income Housing Tax Credit program (LIHTC). These programs fund PHA's, nonprofits, and private developers for new construction or rehabilitation of low-income multifamily units or

single resident units. Low-income means rents are no more than 80% of area median income. TDHCA's Help for Texans lists affordable housing by city and county.

### **Home Ownership**

**Texas Bootstrap Program** is for very low and extremely low-income people to build a new home or rehabilitate one. This is a self-help program where a person arranges 65% of the labor in exchange for a zero interest loan up to \$45,000 for total costs not to exceed \$90,000. Community non-profits, like Habitat for Humanity, may assist the family. TDCHA must allocate \$3 million per year to Bootstrap (Chapter 2306.7581 Texas Government Code).

### **Barrier Removal**

**Amy Young Barrier Removal Program (AYBR)** Persons with disabilities and seniors up to 80% AMFI can receive necessary accessibility modifications and rehabilitation in homes they own or rent up to a total of \$20,000. The modifications are **free to eligible persons**. **Look under home repair and home modification in Help for Texans to see if you have a local AYBR.** And, many city and counties have sources for home access barrier removal.

# More Children Growing Up In Families

Texans have made significant progress in the past 13 years to ensure that children and young adults with disabilities have a chance to grow up in a family



Senate Bill 368 (2001) required the Texas Health and Human Services Commission (HHSC) to monitor all child placements and ensure ongoing **permanency plans** for each child with a developmental disability residing in an institution.



Permanency plans involve families and children to help **identify options and develop services and supports necessary** for the child to live in a family setting.



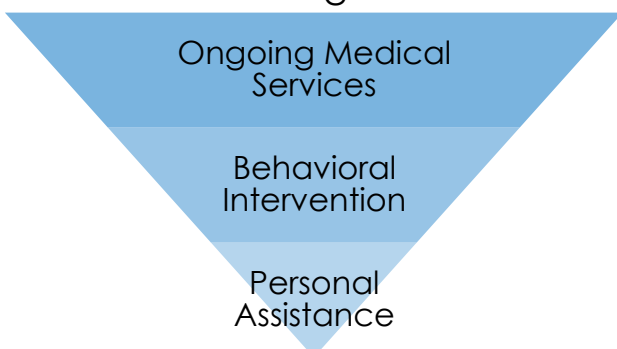
Families and caretakers choose family-based care instead of institutional care when family support is available in **Medicaid waiver programs**.

## in · sti · tu · tion

instə't(y)ooSH(ə)n/ noun

Residential congregate care facilities that are segregated and are not community-based. Using SB 368's definition, institutions regulated by the Department of Aging and Disability Services (DADS) include nursing facilities, community ICFs (small, medium, and large), State Supported Living Centers (SSLCs), and 3 or 4 bed group homes in the Home and Community-based Services (HCS) waiver program. Institutions regulated by the Department of Family and Protective Services (DFPS) for children with intellectual and developmental disabilities are general residential operations (GROs).

Most Needed  
Community Supports Identified for  
Children Moving Into Families



The HCS waiver allows Texas to offer family-based alternatives through a host family where specially trained alternative families in the community provide homes for children who cannot live with their birth families.



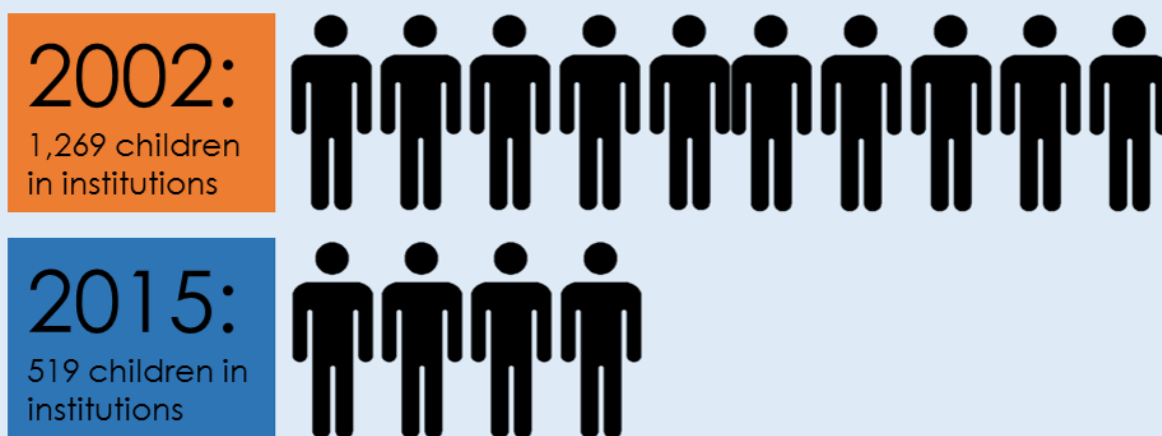


The Texas Council for Developmental Disabilities supports the position that services to children should be provided in their family setting. When children cannot remain with their families, they must be cared for using principles, policies and processes akin to those of permanency planning and have access to family-based alternatives that ensure enduring and nurturing relationships.

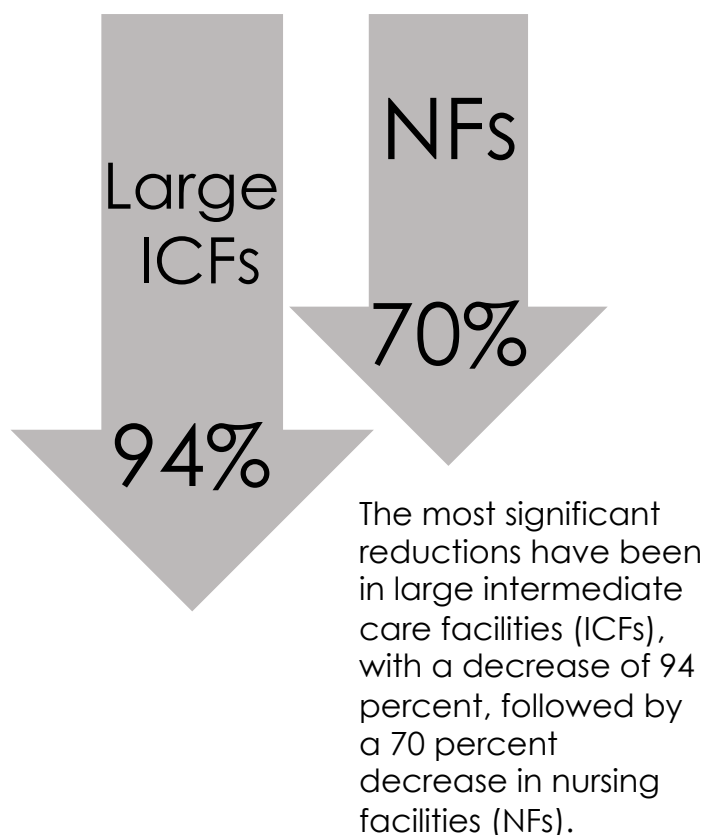
EveryCHILD Inc.

HHSC's family-based alternatives contractor, EveryChild, Inc. works to increase awareness of alternatives to placing children in large facilities and to increase the state's capacity to offer family-based alternatives to children with disabilities who live in institutions.

**FORMER TCDD PROJECT!**



(Totals above reflect children residing in DADS and DFPS facilities without HCS)



Breakdown of Children in Institutions (2/28/15)

Institution Type	Ages 0-17	Ages 18-21	Total
Nursing Facility	45	26	71
Small ICF	34	144	178
Medium ICF	4	41	45
Large ICF	0	16	16
SSLC	86	86	172
DFPS-Licensed ID	30	7	37

Data taken from the July 2015 Legislative Report on Permanency Planning and Family-Based Alternatives, which can be found at the link below.  
[July 2015 Legislative Report on Permanency Planning and Family-Based Alternatives](#)



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Via email [Medicaid\\_HCBS\\_Rule@hhsc.state.tx.us](mailto:Medicaid_HCBS_Rule@hhsc.state.tx.us)

December 7, 2015

Texas Health and Human Services Commission  
P.O. Box 13247  
Mail Code H-600  
Attn: Kristine Dahlmann  
Austin, Texas 78711-3247

RE: Public Comment on HCBS Setting Rule Surveys

Thank you for the opportunity to provide comments on the first draft of the Home and Community Based Services (HCBS) Settings Rule surveys. The Texas Council for Developmental Disabilities (TCDD) is established in federal law in the Developmental Disabilities Assistance and Bill of Rights Act and is governed by a 27 board members, appointed by the Governor, 60 percent of whom are individuals with developmental disabilities or family members of a person with disabilities. TCDD's purpose in law is to encourage policy change so that people with disabilities have opportunities to be fully included in their communities and exercise control over their own lives.

The HCBS Settings Rule transition process represents the state's most significant opportunity to understand the current status of the HCBS system and ensure that programs are being implemented as intended. We continue to support the state's assertion that Texas HCBS programs, by rule, largely comply with HCBS Settings Rule. It is the interpretation and implementation of those rules, policies and procedures at the individual and provider level that represent our greatest opportunity for improvement.

#### Field Test

The participant surveys were tested with a number of program participants who indicate that there is much room for improvement. Many of the participant survey questions include too many concepts (and words!). We recommend that the final participant survey drafts should be field tested (20 people) and modified accordingly. Please feel free to call upon us to support you in this effort.

#### Plain Language

As a general comment, it appears that the surveys were authored by different state agency staff for different audiences. They would all be improved by a single person editing the documents so that similar questions are asked using plain language for all audiences. Surprisingly, the language used in the residential provider survey was far more accessible than the participant residential and day program surveys. Many of the questions in the HCBS surveys are similar to those used in

the National Core Indicators survey. We encourage the survey leads to review the NCI questions and to use NCI formatted questions whenever possible and/or use them as a model in the next draft. The NCI survey is widely field tested and would allow state level comparisons.

### Equity

The providers' survey includes opportunities for open ended responses in seemingly every single section queried, while there are absolutely no opportunities for program participants to provide open ended responses. Because this was such a significant oversight, we strongly recommend that program participants, too, have opportunities to provide open ended responses and that they be aggregated according to standard survey methods.

### Surveyor Requirements

We understand that the Health and Human Services Commission intends to contract with the same entity responsible for gathering input for National Core Indicators. We recommend that those surveyors enter into a formal relationship with the Texas A&M Center on Disability and Development to provide Person Centered Thinking training and guidance on the structure of the questions and other survey strategies.

We expect contract requirements to include guidance to interviewers to report identified incidents of abuse, neglect and exploitation. Interviewers should also be required to help program participants to contact the service coordinator if the person indicates that they want to live elsewhere or seek different day services, as this survey process could be the first time that a person becomes aware of their control and choice.

### Results and Outcomes

There have been varying messages from CMS and HHSC with regard to what will be done with the survey responses. We know the surveys are intended to identify and address systemic issues in HCBS settings. It appears to advocates that CMS has indicated that the purpose of surveying both program participants and their providers is to ensure that participants are experiencing what providers are reporting. Therefore, comparing the experience of participants and their specific providers would seem necessary for a review of specific settings. However, we understand that HHSC staff have claimed in open forums that the state will not be identifying and addressing location specific deficiencies. We continue to request clarity with regard to what will be done with the results of the surveys. We understand that this is a significant and daunting process, but the potential for shifting the balance of control of these program to the individuals and expand community integration opportunities should not be lost.

### Provider Accountability

The participant survey suggests that the program participant will be identifiable, but it is unclear who would be responding for the survey at the provider level. We understand that provider operations are different across the state and that the task would not be assigned at the same staff level across the board. However, the instructions should be clear that staff with knowledge of the person(s) living in the home would be involved in the survey process and not solely dependent on provider central administration staff. That person or persons should be identifiable.

Generally, we are concerned that providers appear to be permitted to respond that they ‘don’t know’ to too many questions. What level of ‘don’t knows’ will be permitted for response compliance and what level will be remitted for repeat completion?

#### Day Activities

It appears that the survey is designed to minimally address issues in day habilitation rather than address issues relating to providing meaningful day activities. Employment assistance is not referenced by name in any of the surveys despite the fact that it is a defined service in each of the HCBS waivers and the fact that Texas is an Employment First state. We suggest that not adequately addressing employment assistance is a missed opportunity.

#### Personal Spending

Program participants in residential settings have no expectation of access to minimal personal spending in rule, policy or practice. Advocates have identified this issue as one that should be addressed in the transition plan, yet it is not addressed in the survey, nor has it been identified in the State Transition Plan. We suggest that not addressing access to personal spending in the surveys is another missed opportunity.

Attached we’ve included the surveys that were provided by Department of Aging and Disabilities staff at the November 5th TCDD Committee of the Whole meeting, comments regarding survey content, and comments provided by a Council member regarding survey method improvements.

Thank you for your work on the HCBS Settings Rule Surveys. Please feel free to call upon TCDD to support you in this important effort.

Sincerely,

Jessica Ramos  
Public Policy Director

Attachments: Survey Drafts Provided to TCDD  
Survey Comments (content specific)  
Survey Comments (survey methods)



## SYSTEM IMPROVEMENT RECOMMENDATIONS

### **Recommendation 1:**

Allow people who are deafblind in medium and large intermediate care facilities (ICFs) and state supported living centers (SSLCs) to access to the waiver that most appropriately meets their needs via Promoting Independence.

#### **Why?**

The Promoting Independence Initiative for people in SSLCs limits waiver access to only the Home and Community-based Services (HCS) program. More appropriate waiver programs, like those that include intervener services, are available and should be explored.

Specifically, allowing access to the DBMD or CLASS waivers offers a simple solution to a persistent problem for people who are deafblind in institutions.

### **Recommendation 2:**

Reduce conflict of interest in the Community Living Options (CLO) process for people in medium and large ICFs by transferring responsibility for the CLO from the ICF provider to the Local Intellectual and Developmental Disability Authorities (LIDDAs).

#### **Why?**

Expand the Community Living Options Information Process function of the Local Intellectual and Developmental Disabilities Authorities (LIDDAs) to include people in private medium and large ICFs. LIDDAs are already paid to provide this service for SSLC residents.

### **Recommendation 3:**

Ensure that HCS waiver participants have access to a minimum Personal Needs Allowance (PNA) which is not currently required for people who pay for room and board with their Social Security Income (SSI)/Social Security Disability Insurance (SSDI).

#### **Why?**

Minimum requirements do not exist for personal spending and community integration provisions covered by the PNA for people using HCBS waiver services. In contrast, all people receiving institutional services are required to receive a minimum of \$60 in personal spending and are not subject to requirements around community integration.

### **Recommendation 4:**

Meaningfully include people with developmental disabilities (DD) on statewide councils, workgroups, and committees concerning their health and human services by developing a pool of contracted direct support professional to address the personal care and habilitation needs of people during their work.

#### **Why?**

People with DD should be supported to meaningfully participate in councils, workgroups and committees that impact their service system. However, achieving meaningful inclusion in these processes is complicated. Although health and human services agencies in Texas

are appointing people with DD to statewide bodies, the supports to ensure their meaningful participation as valued stakeholders are inadequate. Some people with DD require advance support to review materials and prepare comments in addition to support during the meeting to provide prompts regarding appropriate timing for their input. In addition, making the structure, format, and setting accessible to all people with disabilities requires an accessibility framework that includes sensory and cognitive adaptations.

**Recommendation 5:**

Prohibit state use program contractors from paying people with disabilities subminimum wage.

**Why?**

Other states have successfully implemented supported and integrated employment opportunities for people with disabilities to earn a competitive wage. By establishing financial assistance and incentives for employers who eliminate segregated settings and subminimum wages for people with disabilities, these states foster equality and independence. Texas implement best practices used by other states and prohibit the practice of allowing the payment of subminimum wages to people with disabilities by state use program contractors.



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December 21, 2015

Delivered via public comment@tcole.texas.gov

Mr. Kim Vickers  
Texas Commission on Law Enforcement  
6330 East Highway 290, Suite 200  
Austin, TX 78723

RE: School-Based Law Enforcement Training Draft, December 2015

Dear Commissioner Vickers and Members of the TCOLE Commission:

The Texas Council for Developmental Disabilities (TCDD) is pleased to provide comments concerning the School-Based Law Enforcement Training Draft released by the Texas Commission on Law Enforcement (TCOLE) pursuant to the requirements of HB 2684, Regular Session, 84<sup>th</sup> Texas Legislature, 2015. TCDD is established by federal law and is governed by 27 board members, appointed by the Governor, 60% of whom are individuals with developmental disabilities or family members of individuals with disabilities. The Council's purpose in law is to encourage policy change so that people with disabilities have opportunities to be fully included in their communities and exercise control over their own lives.

We were heartened that the curriculum included discussions of positive behavior interventions and supports (PBIS) and restorative justice.

We concur with all of the comments jointly submitted by the American Civil Liberties Union of Texas, Texans Care for Children, Texas Appleseed, and other cosigners to the document submitted to you on December 17, 2015.

TCDD has additional comments. The next draft of the curriculum would be improved with a greater focus on students with intellectual and developmental disabilities, as they clearly constitute the subset of students most often involved in SRO-related incidents. According to United States Department of Education statistics for Texas in 2011-2012:

- Students with disabilities total 9% of the school population but comprise 79% of those physically restrained at school.<sup>1</sup>
- Students with disabilities are more than twice as likely to receive an out-of-school suspension (13%) than students without disabilities (5%).<sup>2</sup>
- Students with disabilities represent 26% of students arrested and 21% of those referred to law enforcement, even though they are only 9% of the overall student population.<sup>3</sup>

The draft curriculum does not recognize students with a dual diagnosis of intellectual and developmental disability and mental illness as requiring special understanding. Please note that it

<sup>1</sup>*Data Snapshot: School Discipline*. US Department of Education Office for Civil Rights. Washington, DC: March 2014, p. 19. Accessed at <http://ocrdata.ed.gov/Downloads/CRDC-School-Discipline-Snapshot.pdf>, December 18, 2015.

<sup>2</sup>*Data Snapshot: School Discipline*, p. 17. Accessed at <http://ocrdata.ed.gov/Downloads/CRDC-School-Discipline-Snapshot.pdf>, December 18, 2015.

<sup>3</sup>*Civil Rights Data Collection*. US Department of Education Office for Civil Rights. Accessed at <http://ocrdata.ed.gov/StateNationalEstimations>, December 18, 2015.

is estimated that at least one-third of students with intellectual and developmental disabilities also have mental illness. Further, a prevalence rate of emotional disorders of up to 50% has been reported for children with intellectual disorders.<sup>4</sup> The reasons for this have been cited as reduced capacity to manage social and cognitive demands, problem-solving difficulties, poor social judgment, and communication limitations, and related biological, psychological, and social risk factors.<sup>5</sup> The curriculum needs to acknowledge the special needs of students who are dually diagnosed and provide not only education to officers about behaviors, but also strategies on how to intervene and prevent unnecessary suspensions and arrests.

With respect to the curriculum on mental illness, we recommend correcting substantial inaccuracies, such as listing only “Heredity—Mental illness runs in families” under the heading “Causes of Mental Illness.” Not all mental illness is hereditary.

Another area of importance requiring more discussion is the effect of trauma on students, especially individuals with intellectual and developmental disabilities. Students with intellectual and developmental disabilities experience abuse, neglect, institutionalization, restraint and seclusion, abandonment, bullying, and other forms of maltreatment at higher rates than the general population. The trauma associated with these experiences can result in challenging behavior that, without informed intervention, leads to new trauma. The National Child Traumatic Stress Network<sup>6</sup>, SafePlace (Austin)<sup>7</sup>, the ChildTrauma Academy (Houston)<sup>8</sup>, and other resources should be accessed to provide practical guidance to SROs.

It may be helpful to note that Senate Bill 133, Regular Session, 84<sup>th</sup> Legislature, 2015, amended the Health and Safety Code to expand the categories of school district employees eligible to receive training in Mental Health First Aid training through a Department of State Health Services (DSHS) grant program beyond educators alone and includes school resource officers. This training has been in effect for two years. The coordination of how to most efficiently achieve the joint objectives of SB 133 and HB 2684 needs to be considered.

We respectfully recommend that a stakeholder group of students, family members, advocates, public school officers, general and special education teachers, mental health authorities, contract providers of Mental Health First Aid, and other subject matter experts be convened to jointly review the draft document and recommend changes. Such an action will go far to ensure that the curriculum meets the intentions of HB 2684 and is responsive to the concerns that prompted its passage.

We stand ready to serve as a resource to you in the work ahead, especially with respect to issues involving students with intellectual and developmental disabilities, including students who are also diagnosed with mental illness. Please do not hesitate to call on us.

Sincerely,

/s/

Linda Logan, MPAff

<sup>4</sup>*Including Individuals with Intellectual/Developmental Disabilities and Co-Occurring Mental Illness: Challenges that Must Be Addressed in Health Care Reform*. National Association for the Dually Diagnosed. Accessed at <http://thenadd.org/wp-content/uploads/2013/10/NADD-Position-Statement-on-letterhead1.pdf>, December 18, 2015.

<sup>5</sup>Wergas D. “The Other Dual Diagnosis: Intellectual Disability and Mental Illness.” *NADD Bulletin*, Volume X, Number 5, Article 2. Accessed at <http://thenadd.org/modal/bulletins/v10n5a2~.htm>, December 18, 2015.

<sup>6</sup><http://www.nctsn.org/resources/audiences/school-personnel>, accessed December 18, 2015.

<sup>7</sup><http://www.safeaustin.org/safeplace/>, accessed December 18, 2015.

<sup>8</sup><http://childtrauma.org/>, accessed December 18, 2015.